REMARKS

The examiner's action dated December 18, 2002, has been received and its contents carefully noted.

In response to the double patenting rejection, submitted herewith is a Terminal Disclaimer.

In response to the rejection of the claims under 35 U.S.C. 112, claim 1 has been amended to specify that the measurement station is "so dimensioned as to be installable within the exit station of the processing machine". It is submitted that this recitation should be considered to be definite because it is as accurate as the subject matter permits. An object of the present invention is to provide a measurement station that can be installed in an exit station of a processing machine. Exit stations may exist in a number of different sizes. Therefore, the invention can not be properly defined in terms of specific dimensions.

It is recognized that a relative term of the type now provided in claim 1 must be considered definite if the recitations are as accurate as the subject matter permits. For example, in *Orthokinetics, Inc. v Safety Travel Chairs, Inc.* 1USPQ2d1081 (Fed. Cir. 1986), the court held that the recitation that a certain part of a wheelchair be "so dimensioned as to be insertable through the space between the door frame of an automobile and one of the seats" was not impermissibly indefinite.

As regards the question relating to "charge coupled device", this is a conventional electronic device used in many modern systems. Attached hereto are two printouts containing descriptions of these devices.

Claims 8, 9, 23 and 24 have been amended to include a definition of the function of the beam splitter or pin hole mirror. Claims 13 and 19 have been cancelled and claims 14, 15 and 30 have been amended by deletion of the objectionable phrases.

Accordingly, it is requested that the rejection under 35 U.S.C. 112 be reconsidered and withdrawn.

The rejection of claims 1-33 as unpatentable over Okumura et al in view of Birang is respectfully traversed for the reason that the measurement station and processing machine defined in the pending claims is not suggested by any combination of the applied references.

The present invention is directed essentially to a measurement station that is used in a processing machine and an exit station located outside the processing station. Such an exit station is typically an independent functional unit having its own wafer transfer means for handling a wafer before and after processing and at least one wafer cassette. Reference is made to figs. 11-13, which show a measurement station according to the present invention during receipt, transfer and measurement of a wafer. A purpose of the present invention is to construct the measurement station so that it is installable within the exit station of the processing machine, the measurement station including a spectrophometric measuring unit and a holding unit for receiving and holding the wafer in a measuring position during measurement. As can clearly be seen in figs. 2 and 10-13 of the present application, the footprint of this measurement station in at least one direction is about equal to the diameter of a wafer.

The possibility of providing a measurement station within the exit station provides an optimal configuration, one reason being that the operating time of a robot operating in the processing area of the processing machine will not be increased by handling operations in the exit station. As a result, the throughput of the processing machine is not affected.

Thus, claim 1 clearly distinguishes patentably over any reasonable combination of the teachings of the applied references at least by the following recitations: "the measurement station being so dimensioned as to be installable within the exit station of the processing machine", and "comprising a spectrophometric measuring unit and a holding unit for receiving and holding the wafer in a measurement position during measurements".

In point of fact, neither reference discloses a measurement station that is dimensioned to be installable within an exit station, or a measurement station that includes a

spectrophometric measuring unit together with a holding unit for receiving and holding the wafer in a measuring position.

Similarly, claim 15 distinguishes patentably over any reasonable combination of the teachings of the applied references at least by the following recitation: "said measurement station being associated with the exit station of the processing machine and having a footprint in at least one dimension of about a size of the wafer's diameter." This relationship is readily apparent from the illustrations provided in figs. 2 and 10-13 of the present application.

Claim 16 distinguishes patentably over the applied references at least by the following recitations: "the optical measurement station being associated with an exit station of the processing machine and including a wafer transfer means and at least one wafer cassette and comprising a spectrophometric measuring unit and a holding unit for receiving the wafer and holding it in a measuring position during measurements." These recitations distinguish over the applied reference in essentially the same manner as the recitations in claim 1, with one difference being that claim 16 is directed to a processing machine in which the optical measurement station is one component.

Furthermore, the Birang reference on which the examiner relies is, in fact, based on an application having a filing date later than the filing date of the parent to the present application, which is identified as such in the present specification. Since the parent application of the Birang was not cited or relied upon, it can not be determined whether the disclosure of the Birang patent on which the examiner relies was contained in the corresponding parent application. Therefore, the present record provides no evidence that the Birang patent is available as prior art against the claims of the present application.

In view of the above comments, it is requested that all objections and rejections of record be reconsidered and withdrawn and that claims 1-33 be allowed.

REQUEST FOR SUBSTITUTE INITIALED PTO 1449

It is noted that the copy of applicant's PTO 1449 that was attached to the office action of December 18, 2002, indicates that certain cited references were not considered. The copy received with the office action includes the notation "NS" or "Not Sent" in the margin next to these references.

All of the references that were not initialed were cited during examination of U.S. application number 09/498,926, of which the present application has been identified as a continuation. That application issued as U.S. Patent Number 6,368,181. The examiner's attention is drawn to 37 CFR 1.98(d)(1), which clearly states that copies of patents listed in an information disclosure statement need not be provided if the patents were previously submitted to, or cited by, the office in an earlier application, when that earlier application is properly identified in the information disclosure statement and is relied on for an earlier effective filing date under 35 U.S.C. 120. In the present case, both of those latter conditions were satisfied.

Accordingly, attached hereto is a new copy of our PTO 1449 with the request that all of the cited references be considered and that this be indicated by initialing all of the citations.

If the above amendment should not now place the application in condition for allowance, the Examiner is invited to call undersigned counsel to resolve any remaining issues.

Respectfully submitted,
BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By _____
Jay M. Finkelstein
Registration No. 21,082

JMF:gkw:lt
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
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